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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,607	10/30/2000	Kaushal Kurapati	US000256	6742

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EXAMINER

USTARIS, JOSEPH G

ART UNIT PAPER NUMBER

2617

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/699,607

Applicant(s)

KURAPATI, KAUSHAL

Examiner

Joseph G. Ustaris

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-7, 9-13 and 15-23 is/are rejected.
- 7) ☒ Claim(s) 2, 8 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to the amendment dated 10 February 2005 in application 09/699,607.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5, 7, 9-11, 13, 15, 16, and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrington et al. (US006865746B1) in view of Finseth et al. (US006742184B1) and Ismail et al. (US006614987B1).

Regarding claim 1, Herrington et al. (Herrington) discloses a "method for searching a list of available programs from an electronic program guide" (See Fig. 1; column 1 lines 38-50). The system is able to generate a request or "generate a query" that is in "response to a command by a user, wherein the user command comprises a request to generate program recommendations from the available programs" (See column 6 lines 39-61 and column 7 lines 38-53). The request "specifies at least one attribute for each of a plurality of program attributes" and "compares the attributes of the available programs to the attributes specified by the query to identify programs from the available programs satisfying said query" (See column 7 lines 38-53). However,

Herrington does not disclose (1) "at least one attribute is selected based on at least one prior search that has been executed by the user to obtain program recommendations" and (2) the attributes are "attribute-value pairs".

(1) Finseth et al. (Finseth) discloses an electronic program guide (EPG) that is able to find programs that are of interest to the user (See Fig. 12). The system stores a user selection history where it is able to record the attributes of programs the user selects to view, where the programs viewed by the user can be selected off a search performed by the EPG (See Figs. 12-14; column 12 line 28 – column 13 line 11). The EPG searches for program recommendations using the most frequently appearing program attributes stored in the selection history or "at least one attribute is selected based on at least one prior search that has been executed by the user to obtain program recommendations" (See column 17 lines 11-25). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify EPG system disclosed by Herrington to maintain a user selection history and to include "at least one attribute selected based on at least one prior search that has been executed by the user to obtain program recommendations" in the request, as taught by Finseth, in order to provide a system that can perform a search that strongly reflects the current tastes of the user thereby providing a more accurate means of selecting materials that are of interest to the user.

(2) Ismail et al. (Ismail) discloses system for television program recording with user preference determination, wherein the system selects a television program or "audio and video" that meets the user's preferences and records it. The programs

include attributes that are "attribute-value pairs", where each attribute or category has a value associated with it (See column 3 lines 43-65). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the attributes disclosed by Herrington to be "attribute-value pairs", as taught by Ismail, in order to provide a more accurate means of selecting programs that are of interest to the user.

Regarding claim 3, the "user command is provided by a single button click" (See Herrington column 6 lines 55-61).

Regarding claim 4, the selected attributes, which are obtained based on at least one prior search as discussed in claim 1, are "obtained using the top-N search terms that have been previously used in a query" (See Finseth column 17 lines 11-25). Furthermore, the system selects the most frequently appearing attributes, where inherently the frequency of the attributes is a positive number or "N is a positive number" or "N is greater than or equal to zero".

Regarding claim 5, Herrington further discloses that the user can configure the requests so that certain attributes are required to be met in a request or "default terms for a given attribute that supercede corresponding top-N search terms" (See Herrington Figs. 7A, 15, and 16; column 8 line 51 – column 9 line 15).

Claim 7 contains the limitations of claim 1 (wherein the generation of the request is also considered "constructing a query") and is analyzed as previously discussed with respect to that claim. Furthermore, the attributes that are stored in the history are can be based off programs that the user selected off a previous search performed by the

EPG or “retrieving at least one prior search of the EPG that has been executed by the user” (See Figs. 12-14; column 12 line 28 – column 13 line 11 and column 17 lines 11-25).

Claim 9 contains the limitations of claims 3 and 7 and is analyzed as previously discussed with respect to those claims.

Claim 10 contains the limitations of claims 4 and 7 and is analyzed as previously discussed with respect to those claims.

Claim 11 contains the limitations of claims 5 and 10 and is analyzed as previously discussed with respect to those claims.

Claim 13 contains the limitations of claims 7, 10, and 11 and is analyzed as previously discussed with respect to those claims.

Claim 15 contains the limitations of claims 9 and 13 and is analyzed as previously discussed with respect to those claims.

Claim 16 contains the limitations of claims 11 and 13 and is analyzed as previously discussed with respect to those claims.

Claim 18 contains the limitations of claim 1 and is analyzed as previously discussed with respect to that claim. Furthermore, Herrington discloses that the method is performed by a set-top box or a server-client environment that inherently includes a “processor” and “memory” (See Herrington Fig. 1; column 5 line 38 – column 6 line 16).

Claim 19 contains the limitations of claims 7 and 18 and is analyzed as previously discussed with respect to those claims.

Claim 20 contains the limitations of claims 13 and 18 and is analyzed as previously discussed with respect to those claims.

Claim 21 contains the limitations of claim 1 and is analyzed as previously discussed with respect to that claim. Furthermore, Herrington discloses that the method is performed by a set-top box or a server-client environment, wherein inherently the set-top box or a server-client environment runs a computer program or "computer readable code" from a "computer readable medium" (See Herrington Fig. 1; column 5 line 38 – column 6 line 16).

Claim 22 contains the limitations of claims 7 and 21 and is analyzed as previously discussed with respect to those claims.

Claim 23 contains the limitations of claims 13 and 21 and is analyzed as previously discussed with respect to those claims.

Claims 6, 12, and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Herrington et al. (US006865746B1) in view of Finseth et al. (US006742184B1) and Ismail et al. (US006614987B1) as applied to claims 1, 3-5, 7, 9-11, 13, 15, 16, and 18-23 above, and further in view of Bowman et al. (US006006225A).

Regarding claim 6, Herrington in view of Finseth and Ismail does not disclose "decomposing the query to identify attribute-value pairs contained in the query and incrementing a counter indicating a number of times each of said attribute-value pairs appears in a query".

Bowman et al. (Bowman) discloses a method for refining search queries by the suggestion of correlated terms from prior searches. Bowman discloses that the system maintains historical information about the frequencies with which specific related query terms have appeared in prior searches or "attribute-value pairs" (See Fig 1, 142; column 6 lines 19-32). The system "decomposes said query to identify attribute-value pairs contained in said query (See Bowman column 8 lines 15-32) and increments a counter indicating a number of times each of said attribute-value pairs appears in a user query" (See Bowman Fig. 1, 146; column 6 line 64 – column 7 line 13). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the EPG and selection history disclosed by Herrington in view of Finseth and Ismail to be able to "decomposing the query to identify attribute-value pairs contained in the query and incrementing a counter indicating a number of times each of said attribute-value pairs appears in a query", as taught by Bowman, in order to provide a more accurate means of recording user viewing preferences thereby providing more accurate means of selecting programs that are of interest to the user.

Claim 12 contains the limitations of claims 6 and 7 and is analyzed as previously discussed with respect to those claims.

Claim 17 contains the limitations of claims 12 and 13 and is analyzed as previously discussed with respect to those claims.



***Allowable Subject Matter***

3. Claims 2, 8, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 2, 8, and 14, the prior art of record does not show or fairly suggest accessing a historical search database that indicates a number of times the each attribute appears in the at least one prior search.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

Furthermore, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, Herrington in view of Finseth and Ismail discloses a system that is able to search a resource (e.g. and EPG) for requested information. Bowman discloses various techniques that provide search refinements. Therefore, the search process

disclosed by Herrington in view of Finseth and Ismail can be improved by using one the search refinement process disclosed by Bowman in order to provide better results.

The examiner suggests that applicant consider providing more details in the independent claims about how the system retrieves the attributes from a search history database and how the system maintains the search history database as supported by Fig. 4 and page 8 line 25 – page 9 line 9.

Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G. Ustaris whose telephone number is 571-272-7383. The examiner can normally be reached on M-F 7:30-5PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JGU  
June 23, 2005

  
VIVEK SRIVASTAVA  
PRIMARY EXAMINER